

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JAMES D. KLEIN, RUFUS ORR and
ROBERT ZIMMERMAN, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

V.

BAIN CAPITAL PARTNERS, LLC, THE BLACKSTONE GROUP L.P., THE CARLYLE GROUP, THE GOLDMAN SACHS GROUP, INC., GS CAPITAL PARTNERS, L.P., JP MORGAN CHASE & CO., JP MORGAN PARTNERS, LLC, KOHLBERG KRAVIS ROBERTS & COMPANY, L.P., MERRILL LYNCH & CO., INC., MERRILL LYNCH GLOBAL PARTNERS, INC., PERMIRA ADVISORS LLC, PROVIDENCE EQUITY PARTNERS, INC., SILVER LAKE PARTNERS, TPG CAPITAL, L.P., THOMAS H. LEE PARTNERS, L.P. and WARBURG PINCUS LLC,

Defendants.

Case No. 1:07-cv-12388 (EFH)

KIRK DAHL, HELMUT GOEPPINGER, and
JOEL GERBER, Individually and on Behalf of
All Others Similarly Situated.

Plaintiffs,

V.

**BAIN CAPITAL PARTNERS, LLC, THE
BLACKSTONE GROUP L.P., THE CARLYLE
GROUP, GOLDMAN SACHS GROUP, INC.,
GS CAPITAL PARTNERS, JP MORGAN
CHASE & CO., JP MORGAN PARTNERS,
LLC, KOHLBERG KRAVIS ROBERTS &
COMPANY, L.P., MERRILL LYNCH & CO.,
INC., MERRILL LYNCH GLOBAL
PARTNERS, INC., PERMIRA ADVISORS
LLC, PROVIDENCE EQUITY PARTNERS,
INC., SILVER LAKE PARTNERS, TPG
CAPITAL, L.P., THOMAS H. LEE**

Case No. 1:08-cv-10254-EFH

PARTNERS, L.P. and WARBURG PINCUS)
LLC,)
)
Defendants.)
_____)

PLAINTIFFS' MOTION TO CONSOLIDATE

Plaintiffs Kirk Dahl, Helmut Goeppinger, Joel Gerber, James D. Klein, Rufus Orr, and Robert Zimmerman respectfully move under Rule 42(a) of the Federal Rules of Civil Procedure for an order consolidating for discovery and trial the action captioned *Klein et al. v. Bain Capital Partners, LLC et al.*, 1:07-cv-12388-EFH (the “*Klein Case*”) with the virtually identical action captioned *Dahl et al. v. Bain Capital Partners, LLC et al.*, 1:08-cv-10254-EFH. Plaintiffs further request that the above-captioned cases be consolidated into an action bearing the caption *In re Private Equity LBO Antitrust Litigation* and the case number of the *Klein Case* – 1:07-cv-12388-EFH.

The grounds for this Motion are set forth in the accompanying memorandum of law.

DATED: April 24, 2008

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI
LLP

s/ Meghan E. Walt
Meghan E. Walt (BBO #658971)
800 Boylston Street, 25th Floor
Boston, MA 02199
(617) 267-2300

K. Craig Wildfang (Admitted *pro hac vice*)
Thomas B. Hatch (Admission Pending)
Stacey P. Slaughter (Admitted *pro hac vice*)
ROBINS, KAPLAN, MILLER & CIRESI
LLP
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
(612) 349-8500

Christopher M. Burke (Admitted *pro hac vice*)
Arthur L. Shingler III (Admitted *pro hac vice*)
Hal Cunningham (Admitted *pro hac vice*)
Kristen M. Anderson (*Pro hac vice*
Admission Pending)
SCOTT + SCOTT LLP
600 B Street, Suite 1500
San Diego, CA 92101
(619) 233-4565

David R. Scott (Admitted *pro hac vice*)
SCOTT + SCOTT LLP
108 Norwich Avenue
Colchester, CT 06415
(860) 537-3818

Patrick J. Coughlin (Of Counsel)
David W. Mitchell (*Pro hac vice* Admission
Pending)
Susan G. Taylor (*Pro hac vice* Admission
Pending)
Elisabeth A. Bowman (*Pro hac vice*
Admission Pending)
Samantha Smith (*Pro hac vice* Admission
Pending)
COUGHLIN STOIA GELLER RUDMAN
& ROBBINS LLP
655 West Broadway, Suite 1900
San Diego, CA 92101
(619) 231-1058

Jack Landskroner (Admitted *pro hac vice*)
Paul Grieco (Admitted *pro hac vice*)
LANDSKRONER • GRIECO • MADDEN,
LTD.
1360 West 9th Street, Suite 200
Cleveland, OH 44113
(216) 522-9000

Brian Robbins (*Pro hac vice* Admission
Pending)
George Aguilar (Admitted *pro hac vice*)
ROBBINS UMEDA & FINK, LLP
610 West Ash Street, Suite 1800
San Diego, CA 92101
(619) 525-3990

Richard Lockridge (Admitted *pro hac vice*)
Charles N. Nauen (Admitted *pro hac vice*)
Karen Riebel (Admitted *pro hac vice*)
LOCKRIDGE GRINDAL NAUEN P.L.L.P.
Suite 2200
100 Washington Avenue South
Minneapolis, MN 55401
(612) 339-6900

Dennis Stewart (Of Counsel)
HULETT HARPER STEWART, LLP
550 West C Street, Suite 1600
San Diego, CA 92101
(619) 338-1133

J. Gerard Stranch, IV (Admitted *pro hac*
vice)
BRANSTETTER, STRANCH &
JENNINGS, PLLC
227 Second Avenue, North – 4th Floor
Nashville, TN 37201-1631
(615) 254-8801

Brian Murray (Of Counsel)
MURRAY, FRANK & SAILER LLP
275 Madison Avenue, 8th floor
New York, NY 10016
(212) 682-1818

Mark Reinhardt (Of Counsel)
REINHARDT WENDORF &
BLANCHFIELD
P.O. Box 460
2201 Atlantic Avenue
Sullivan's Island, SC 29482
(651) 287-2100

Nadeem Faruqi (Of Counsel)
FARUQI & FARUQI, LLP
369 Lexington Avenue, 10th Floor
New York, NY 10017
(212) 983-9330

Attorneys for Plaintiffs

CERTIFICATE OF COMPLIANCE WITH RULE 7.1 CERTIFICATION

I hereby certify that counsel for Plaintiffs conferred by phone on April 24, 2008,
with counsel for Defendants who assented to the Motion.

s/ Meghan E. Walt

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2008, a copy of the foregoing Motion for Consolidation was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

s/ Meghan E. Walt
MEGHAN E. WALT
ROBINS, KAPLAN, MILLER & CIRESI
LLP
800 Boylston Street, 25th Floor
Boston, MA 02199
(617) 267-2300
mewalt@rkmc.com